

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.9232 of 2007

Shakuntala Kashiram Bhagt ..Petitioner

vs.

Chief Officer
Nagar Parishad, Rajapur ..Respondent

Shri Harshad Bhadbhade for petitioner.
Shri S.A.Sawant for respondent.

**CORAM: S.C.DHARMADHIARI J.
17th December, 2007**

P.C.

1. This writ petition challenges the order refusing to condone the delay in filing of the Regular Civil Appeal.

2. Having perused the petition and annexures thereto, in my opinion, delay of 191 days could have been condoned in the peculiar facts of this case by putting the petitioner on some terms.

4. Shri Sawant, upon instructions, states that the decree is now executed and nothing survives in the matter.

5. In my view, whether the decree is executed or not is not something which is relevant to the

grant of application for condonation of delay. In the present case, the reasoning in paras 6 and 7 of the impugned judgment shows that the learned Judge has gone into the merits of the controversy. That has influenced the decision to a considerable extent. In such circumstances, and when there was sufficient cause on account of the ailment of the power of attorney holder who is none other than the son of the petitioner/applicant, the delay could have been condoned. The delay is accordingly condoned. The Misc.Civil Application no.31 of 2007 is allowed, however, the petitioner to pay costs quantified at Rs.500/- Petition is disposed of.

(S.C.DHARMADHIKARI J.)